

Procedures...

JUDGE JEFFERY A. DELLER  
EFFECTIVE NOVEMBER 7, 2005

The following procedures are specific to Judge Deller's cases and are mandatory unless otherwise ordered. These procedures and the hearing dates posted are subject to change at any time by the Court. Parties and their legal counsel are responsible for reviewing the procedures and, where applicable, using only the posted hearing dates.

These procedures supplement and do not replace the Federal Rules of Bankruptcy Procedure, Local Rules, Court Procedures Manual, and General Orders of this Court.

**I. PROCEDURES APPLICABLE TO ALL CASES**

- A. **Correspondence with the Court:** Judge Deller discourages letters or other ex parte communications concerning cases (See Fed.R.Bankr.9003). To the extent parties feel it is necessary to correspond with the Court regarding administrative matters, they should do so in writing and copy opposing counsel. Information regarding the merits of a matter is properly brought before the Court in the form of a pleading. Unless expressly authorized by Judge Deller, no documents or papers are to be faxed or e-mailed to chambers. Judge Deller's courtroom deputy will assist with the administration of procedural matters, but is prohibited from giving legal advice.
- B. **Continuation, Rescheduling, and Canceling Hearings:** Requests to continue, reschedule or cancel a hearing must be made by written motion. Written requests to continue, re-schedule or cancel a duly noticed hearing are considered by Judge Deller on a case-by-case basis. All requests for a continuance, rescheduling or cancellation of a duly noticed hearing should identify the good cause supporting the requested action, and identify whether the parties in interest consent and/or object to the proposed relief. No hearings will be continued, rescheduled, or cancelled, even if the matter has been settled, unless an appropriate motion and proposed order have been electronically filed with the Clerk at least 3 (three) days before the scheduled hearing date. If time does not allow filing 3 days before the scheduled hearing to provide a status report to the Court, calling Chambers or the courtroom deputy will not continue, reschedule, or cancel the hearing.
- C. **Filing of Pleadings, Motions and Other Court documents:** Documents are to be filed electronically with the Clerk's Office. Unless requested otherwise by Judge Deller, and except as set forth herein, no courtesy copies of filings are required. In regards to emergency matters or matters in which an expedited hearing is requested, please notify the courtroom deputy of the filing. Judge Deller will evaluate such request for an expedited hearing on a case-by-case basis and will schedule a hearing at a date and time as may be appropriate. Courtesy copies of emergency motions or requests for expedited hearings should be provided and delivered to the courtroom deputy.

- D. **Witnesses**: No witnesses will be heard on motions days unless the Court specifically orders otherwise in a particular case. As set forth below, all evidentiary hearings will be specially scheduled.
- E. **Telephone Participation**: Parties or counsel who are located more than 100 miles from the courthouse or have cause to appear telephonically may be able to participate in a non-evidentiary hearing telephonically provided that arrangements are made by calling the courtroom deputy at least three (3) days prior to the scheduled hearing. Parties or counsel who desire to participate by phone must secure the consent of other parties-in-interest who may also participate at the hearing, and if requested by such parties, use a telephone line and/or dial-in number that permits other parties to participate in the telephonic aspect of the hearing as well.
- F. **Mediation and Alternative Dispute Resolution**: Judge Deller encourages litigants to utilize mediation as a means to resolve disputes. If litigants have a matter that is ripe for mediation, advise Judge Deller in writing of the litigants' desire to mediate the particular controversy.
- G. **Appearance of Counsel at Hearings**: Counsel must appear at scheduled hearings unless the order scheduling hearing specifically provides otherwise. Do not contact chambers concerning whether a scheduled hearing has been cancelled (or defaulted). To determine whether a matter remains on the hearing calendar, check the calendar at <http://www.pawb.uscourts.gov> after 12:00 noon the day before the hearing. Orders entered by default will be identified on the calendar. To verify whether a default order has been entered, check the docket. If a Certificate of No Objection is timely filed, the matter may, at the Court's discretion, be taken off the calendar. If a Certificate of No Objection is not timely filed, or if a default order is not entered, counsel must appear at the hearing.
- H. **Motions for Temporary Restraining Order**: A plaintiff seeking a temporary restraining order must electronically file a motion for temporary restraining order and a motion for preliminary injunction at the same adversary number as the original complaint for injunctive relief. See Fed.R.Bankr.P. 7065 and Fed.R.Civ.P. 65. As soon as the request for a temporary restraining order is filed, the plaintiff's counsel must call the courtroom deputy, to arrange for a hearing.

## II. PROCEDURES APPLICABLE TO CHAPTER 7 AND 11 CASES

- A. **Scheduling of Motions and Other Matters**: "Self-Scheduling" does not apply to any Chapter 11 or Chapter 7 cases before Judge Deller. If a pleading, motion or other document requesting relief is filed, Judge Deller will issue a scheduling order for the particular matter.
- B. **First-Day Matters in Chapter 11 Cases**: As soon as the first-day motions have been filed in a particular Chapter 11 case, contact the courtroom deputy to arrange

for a hearing. Counsel for the Chapter 11 debtor is encouraged to provide the Clerk's Office with the "first-day" binder of all filed first-day motions and any responses or objections thereto, along with a proposed agenda for the first-day hearing and an affidavit or declaration of a representative of the debtor in support of the first-day motions.

### III. **PROCEDURES APPLICABLE TO CHAPTER 12 AND 13 CASES**

- A. **Scheduling of Adversary Proceedings and Evidentiary hearings; Other Non-Self-Scheduled Matters:** "Self-scheduling" does not apply to the scheduling of evidentiary hearings of any sort; nor does self-scheduling apply to matters filed in adversary proceedings. Adversary proceeding matters and evidentiary hearings, including evidentiary hearings for contested matters in the main bankruptcy case, will be scheduled by the Court. In addition, the following additional matters shall not be self scheduled by the moving party and will be scheduled only by the Court:

**General Case Matters:**

Chapter 12 plans;  
Amended Chapter 13 plans;  
Amendments to schedules; and  
Applications to modify plans

**Contested Matters, Applications, and/or Motions for:**

Contempt;  
Dismissal or conversion filed by the debtor  
Extension of time;  
Expedited hearing;  
Hardship discharge;  
Payment of unclaimed funds;  
Reconsideration of, or to vacate or modify, a prior order of the Court;  
Reopening of a case or adversary proceeding;  
Sanctions; and  
Wage attachments

- B. **Self-Scheduling of Certain Chapter 12 and Chapter 13 Matters:**

1. **Choosing a Hearing Date:** With respect to all other Chapter 12 and Chapter 13 matters not identified in section III(A) above, such matters should be "self-scheduled" for a hearing and response date by the moving party. Specifically, when scheduling a matter, the movant shall choose a hearing date from the list published by the Clerk relating to Judge Deller's self-scheduling calendar dates, and the moving party shall complete, file and serve a Notice of Hearing. (Note, the Notice of Hearing must conform to the Notice of Hearing forms utilized by the Court) ONLY the hearing dates listed

and published by the Clerk for Judge Deller shall be used for self-scheduled matters. Any matters scheduled by the movant for a date other than one listed by the Clerk shall be dismissed without prejudice to being re-filed, re-noticed, and rescheduled by movant for an authorized date. If a matter is dismissed for noncompliance, the filing party must serve all parties in interest with notice of the dismissal order and cancellation of the hearing.

2. **Notice of Hearing:** Except with respect to matters that require a longer notice period (such as objections to claims) the hearing date selected by the movant must provide for at least 25 calendar days notice of the hearing. At least 25 calendar dates before the chosen authorized hearing date, the movant shall simultaneously electronically file the motion and Notice of hearing and serve same on the Chapter 12 or 13 Trustee and all other respondents and parties in interest. The motion must be filed in sufficient time to allow the 17 days response time required by local rule AND so that the deadline for filing responses/answers/objections is no later than 7 calendar days before the scheduled hearing date. Objections to claims must be filed at least 30 days before the chosen hearing date. Any matters scheduled by the movant which provides for less than the required period of notice shall be dismissed without prejudice to being re-filed, re-noticed, and rescheduled by movant for an authorized date. If a matter is dismissed for noncompliance, the filing party must serve all parties in interest with notice of the dismissal order and cancellation of the hearing.